

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

THE TOWN OF BRANFORD,
CONNECTICUT)

Defendant.)

CIVIL ACTION NO.

COMPLAINT

Plaintiff, the United States of America, by the authority of the Attorney General, through its undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges:

INTRODUCTION

1. This is a civil action brought against the Town of Branford, Connecticut (the "Defendant") pursuant to Sections 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1319(b) and (d).
2. The claims against the Defendant under the CWA arise from the Defendant's unauthorized discharge of pollutants from its sewage collection system located in Branford, Connecticut.
3. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355.

4. Venue is proper in this district pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and pursuant to 28 U.S.C. §§ 1391(b), and 28 U.S.C. § 1395(a).
5. Authority to bring this action is vested in the United States Department of Justice under 28 U.S.C. §§ 516 and 519.
6. Notice of the commencement of this civil action has been given to the State of Connecticut Department of Environmental Protection, in accordance with Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

DEFENDANTS

7. The Defendant is a political subdivision of the State of Connecticut, is a municipality within the meaning of Section 502(4) of the CWA, 33 U.S.C. § 1362(4), and is a person within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

CLEAN WATER ACT STATUTORY SCHEME

8. The CWA is a comprehensive statute designed to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). To achieve that goal, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of an National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. The term “discharge of a pollutant” is defined as “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
9. Section 402 of the CWA, 33 U.S.C. § 1342, establishes the NPDES permit program, and authorizes the Administrator of EPA to issue permits for the discharge of pollutants into navigable waters. Administration of the federal NPDES permit program was duly

delegated to the State of Connecticut in 1973, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). The Connecticut authority for the issuance of permits is established at Section 22a-430 of Chapter 446k of the Connecticut General Statutes.

10. The Defendant discharges pollutants to navigable waters pursuant to NPDES Permit No. CT 0100048 (the "Permit"). The State of Connecticut issued the Permit to Defendant on May 30, 1992 and reissued the Permit on December 31, 1996.
11. The Permit authorizes the City to discharge wastewater to the Branford Harbor through one outfall after treatment in the Town's wastewater treatment plant.

CLAIM FOR RELIEF - UNAUTHORIZED DISCHARGES

12. The United States realleges and incorporates by reference paragraphs 1 through 11 above.
13. On at least 210 occasions, beginning no later than July, 1997, the Town has discharged untreated wastewater to navigable waters through point sources other than the one point source authorized by the Permit, as described in reports prepared by the Town and submitted to the State.
14. Wastewater is a pollutant within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
15. The discharges described in Paragraph 13 above came from the Town's sewage collection system.
16. As a result of the discharges described in Paragraph 13 above, the Defendant has discharged pollutants in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), each day that it discharged untreated waste water through point sources not authorized by the Permit.

17. Pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, for each day of each violation of the Permit and the CWA, Defendant is subject to injunctive relief and the assessment of civil penalties not to exceed \$25,000 for violations occurring before January 31, 1997, \$27,500 for violations occurring on or after January 31, 1997, and \$32,500 for violations occurring on or after March 16, 2004.

RELIEF SOUGHT

Wherefore, Plaintiff, the United States of America, respectfully requests that the Court:

1. Order the Defendant to properly operate and maintain its wastewater collection system;
2. Order the Defendant to hire and retain a staff capable of maintaining Defendant's wastewater collection system;
3. Permanently enjoin the Defendant from discharging pollutants through point sources not authorized by the Permit;
4. Order the Defendant to pay a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day of each violation of the Permit and Section 301 of the CWA, 33 U.S.C. § 1311, occurring prior to January 31, 1997, a civil penalty not to exceed twenty-seven thousand five hundred dollars (\$27,500) for each day of each violation of the Permit and Section 301 of the CWA, 33 U.S.C. § 1311, occurring on or after January 31, 1997, and a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500) for each day of each violation of the Permit and Section 301 of the CWA, 33 U.S.C. § 1311, occurring on or after March 16, 2004;
5. Award the United States all costs and disbursements of this action; and

6. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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